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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/955,750	09/18/2001	Jon W. Brown	100105.401	9478
28970	7590	01/05/2005	EXAMINER	
SHAW PITTMAN IP GROUP 1650 TYSONS BOULEVARD SUITE 1300 MCLEAN, VA 22102			RAMAKRISHNAIAH, MELUR	
		ART UNIT		PAPER NUMBER
		2643		
DATE MAILED: 01/05/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/955,750	BROWN ET AL.
	Examiner Melur Ramakrishnaiah	Art Unit 2643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 07 September 2004.
- 2a) This action is **FINAL**.                                   2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,3-10 and 12-15 is/are rejected.
- 7) Claim(s) 2 and 11 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3-7, 8-10, 12-14, 15, are rejected under 35 U.S.C. 103(a) as being unpatentable over Zigmond et al. (US PAT: 6,698,020, filed 6-15-1998, hereinafter Zigmond ) in view of Parrella et al. (US PAT: 6,507,764, filed 3-30-1999, hereinafter Parrella).

Regarding claim 1, Zigmond discloses a method in a computer system for dynamically inserting a personalized advertisement into a digital broadcast stream, comprising: forwarding a request to obtain the digital broadcast via a stream, receiving and streaming the requested digital broadcast (fig. 3, col. 7 lines 1-21), when detecting an open event in the stream, forwarding a request for an advertisement with an indication of personalized data, receiving an indication of the advertisement that corresponds to the personalized data, downloading the indicated advertisement (col. 7 lines 50-65, col. 8 lines 44-54, col. 12 lines 33-43), and when detecting an ad event during playback of in the digital broadcast stream, causing the playback to switch to the downloaded advertisement (col. 8 lines 44-54, col. 7 lines 26-36).

Regarding claim 8, Zigmond discloses a targeted ad insertion system (TAIS) for dynamically inserting a personalized advertisement into a digital broadcast stream, comprising: an enhanced media encoder for encoding a broadcast stream for delivery

over a data network, wherein the encoder adds event tags and ad tags that indicate segments of broadcast stream containing advertisements, a streaming content system that receives the encoded broadcast stream from the enhanced media encoder (figs. 3-4, col. 7 lines 26-36, col. 8 lines 44-54), a media player in (56, fig. 3) that requests the digital broadcast stream from the streaming content system (50, fig. 3), wherein media player is configured to receive personalized advertisement for playing with in digital broadcast stream that is transmitted on demand (col. 12 lines 33-43).

Regarding claim 15, Zigmond discloses a method for providing to a requester a digital broadcast stream that includes dynamically-inserted advertisement content personalized to the requestor, comprising: receiving an encoded digital broadcast stream from a broadcaster (50, fig. 3), receiving a request to transmit the broadcast stream from the media player of the requestor (56, fig. 3), transmitting the encoded broadcast stream to the media player in (56, fig. 3), receiving the identification request from the media player, forwarding the ad identification request to an ad server, wherein the ad server chooses an ad to be dynamically inserted based on personalized data associated with a media player user, receiving an ad request linked to the ad identification request, and transmitting requested ad to the media player in a format compatible with the media player, wherein the requested ad is dynamically inserted into a broadcast stream and transmitted on demand (col. 7 lines 13-35, col. 8 lines 30-54, col. 11 lines 14-48, col. 12 lines 25-43).

Zigmond differs from claims 1, 8, and 15 in that although he refers to content providers (col. 7 lines 5-12); he does not explicitly teach the following: computer system is configured to pre-store digital broadcast program.

However, Parrella discloses network of digital broadcast stations which teaches the following: computer system is configured to pre-store digital broadcast program (fig. 4 col. 3 lines 27-47).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Zigmond's system to provide for the following: computer system is configured to pre-store digital broadcast program as this arrangement would provide another source of broadcast programs to serve the user needs as taught by Parrella.

Regarding claims 3-7, 9-10, 12-14, Zigmond further teaches the following: switching downloaded advertisement comprises terminating the digital broadcast stream in an instantiated media player and begin to play buffered ad stream in the instantiated media player (col. 4 lines 45-48), personalization data includes at least one of: geographic data associated with the user of the computer, demographic data associated with user, and other user profile data (col. 10 lines 48-63), broadcast stream contains no default ads and contains encoded insertion markers that indicate an ad event (col. 8 lines 29-54, col. 7 lines 26-34), switching the playback to play the digital broadcast stream upon detection that all buffered ads have been played, switching the playback to play the digital broadcast stream upon detection of a close event tag (col. 4 lines 51-52), an ad server that receives an ad identification request from the streaming

content system and forwards an ad identifier to the media player (col. 11 lines 13-48, col. 12 lines 33-43), ad server chooses an ad to be inserted in the broadcast stream based on criteria comprising at least one of: age of a user of the media player, gender of the user, hobbies of the user, and usual genre of broadcast content requested by the user (col. 10 lines 48-63, col. 12 lines 44-59), ad content repository (62, fig. 4) containing ad content for streaming ads to be inserted in the digital broadcast stream and broadcast stream throughput channel for transmitting broadcasts stream an ad content to media player (figs. 4-6), one or more media player servers (reads on 152/50, fig. 8) for providing an interface to the media player in (56, fig. 7) such that media player is chosen to serve the broadcast stream to the media player based on match between the media player and a media player server (fig. 8 col. 18, line 38 – col. 19, line 23), a central processing unit running on a computer of a streaming content system (18/19 fig. 7), an enhanced media encoder interface to receive content from the enhanced media encoder, an ad server interface to forward identification requests to the ad server (62, fig. 7, col. 17 line 50- col. 18, line 28, col. 7 lines 26-36).

3. Claims 2 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

4. Applicant's arguments with respect to claim 1-15 have been considered but are moot in view of the new ground(s) of rejection.

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melur Ramakrishnaiah whose telephone number is (703) 305-1461. The examiner can normally be reached on M-F 6:30-4:00; every other F Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on (703)305-4708. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Melur Ramakrishnaiah  
Primary Examiner  
Art Unit 2643